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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON FINANCE

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Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, December 3, 2008
10:00 a.m.

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PRESENT:

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COUNCILWOMAN MARIAN B. TASCO, CHAIR

COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN BILL GREEN

COUNCILWOMAN WILLIAM GREENLEE

12

COUNCILMAN JAMES F. KENNEY

COUNCILMAN BRIAN J. O'NEILL

13

COUNCILWOMAN BLONDELL REYNOLDS BROWN

COUNCILWOMAN JANNIE BLACKWELL

14

COUNCILMAN FRANK DiCICCO

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BILL 080791 - An ordinance amending Chapter
19-3100 of The Philadelphia Code, entitled
"Attorney Fees in Collection Matters;
Retention of Private Attorneys"...

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BILL 080882 - An ordinance amending Chapter
19-3200, entitled "Keystone Opportunity Zone
and Economic Development District"...

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2 COUNCILWOMAN TASC0: Good

3 afternoon. We're going to move the

4 hearing along. We have two other

5 hearings scheduled for this afternoon.

6 So I'd like to call the

7 Committee on Finance to order,

8 recognizing that we have a quorum in the

9 presence of Councilman O'Neill,

10 Councilman Greenlee, Councilman Kenney,

11 Councilman Goode, Councilman Green and

12 Councilwoman Blondell Reynolds Brown.

13 We'd like the Clerk to read the

14 bill, please.

15 THE CLERK: Bill No. 080791, an

16 ordinance amending Chapter 19-3100 of The

17 Philadelphia Code, entitled "Attorney

18 Fees in Collection Matters; Retention of

19 Private Attorneys," by providing for a

20 schedule of contingency fees to be

21 assessed relating to collection expense

22 incurred in the collection of delinquent

23 tax and other municipal claims;

24 authorizing such expenses; and making

25 certain related technical changes, all

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2 under certain terms and conditions.

3 COUNCILWOMAN TASCO: Thank you.

4 Also let me recognize Councilwoman Jannie
5 Blackwell.

6 COUNCILWOMAN BLACKWELL:

7 Thanks.

8 COUNCILWOMAN TASCO: Could we
9 please have Shelley Smith come forward,
10 Keith Richardson, Dan Cantu-Hertzler and
11 Cynthia White.

12 (Witnesses approached witness
13 table.)

14 MS. SMITH: Good afternoon.

15 COUNCILWOMAN TASCO: Good
16 afternoon. Would you please identify
17 yourself for the record and proceed with
18 your testimony.

19 MS. SMITH: Certainly. Good
20 afternoon, Councilwoman Tasco and members
21 of Council. My name is Shelley Smith.
22 I'm the City Solicitor.

23 To my right is Keith
24 Richardson, Revenue Commissioner. To my
25 left is Dan Cantu-Hertzler, Chair of our

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2 corporate and tax group, and Cynthia

3 White is seated behind us to my left.

4 I have submitted my testimony

5 in advance. Would you like me to review

6 it?

7 COUNCILWOMAN TASC0: Beg your

8 pardon?

9 MS. SMITH: I said I've

10 submitted my testimony in advance. Would

11 you like me to read it into the record?

12 COUNCILWOMAN TASC0: Let us

13 hear it.

14 MS. SMITH: Sure.

15 Good afternoon.

16 COUNCILWOMAN TASC0: We haven't

17 read it, so just let us hear it for the

18 record.

19 MS. SMITH: Good afternoon,

20 Councilwoman Tasco and members of the

21 Finance Committee. I am City Solicitor

22 Shelley Smith. With me, as I said, are

23 Keith Richardson and Dan Cantu-Hertzler

24 and Cynthia White. We come before you

25 today in support of Bill No. 080791,

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 which asks City Council to exercise the
3 authority granted by the General Assembly
4 in 2004 to impose on delinquent taxpayers
5 some or all of the costs of collection of
6 certain taxes and other municipal claims.

7 Sections 1 and 3 of the
8 Municipal Claims and Tax Liens Law,
9 reported at 53 Pennsylvania Statutes
10 Annotated, Sections 7101 and 7106, have
11 for many years permitted the City to
12 impose attorneys' fees on taxpayers that
13 owe delinquent real estate taxes and
14 other delinquent real property-based
15 charges, such as water and sewer bills
16 and nuisance liens. The City may do this
17 if City Council approves the charges, and
18 City Council did so pursuant to Bill
19 960359, approved in July 1996, which
20 added Chapter 19-3100 to The Philadelphia
21 Code.

22 Section 19-3101, Subsection 1
23 currently permits the City to impose
24 attorneys' fees of six percent in matters
25 handled by the Law Department, 18 percent

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2 in matters handled by outside counsel on
3 a contingency fee basis, and \$75 per hour
4 in matters handled by outside counsel on
5 an hourly basis. Under Section 19-3101,
6 Subsection 2, the City Solicitor may
7 adjust those rates by regulation, though
8 this has never happened.

9 In Act 83 of 2004, the General
10 Assembly granted similar authority to
11 municipalities to impose the costs of
12 collection agencies onto delinquent
13 taxpayers. The General Assembly did this
14 by amending the definition of "charges,
15 expenses and fees" in Section 1 of the
16 Municipal Claims and Tax Liens Law to
17 include all sums -- and I'm quoting --
18 "all sums payable or incurred by a
19 municipality to file, preserve and
20 collect unpaid taxes, tax claims, tax
21 liens, municipal claims and municipal
22 liens," end quote, and by further
23 providing that a municipality, quote,
24 "may also recover as charges, expenses
25 and fees the charges, expenses,

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2 commissions and fees of third-party
3 collectors retained by the municipality,
4 provided that the charges, expenses,
5 commissions and fees of such third-party
6 collectors are approved by legislative
7 action of the municipality," end quote.

8 Based on this legislation, we
9 come before you today to ask that you use
10 that authority from the General Assembly
11 to amend Chapter 19-3100 of The
12 Philadelphia Code. The taxpayers of this
13 City should not bear the cost of paying
14 others to collect delinquent taxes,
15 especially under our current economic
16 circumstances. When you grant this
17 authorization, in some instances, it may
18 be more cost effective to retain
19 collection agencies as opposed to law
20 firms to collect delinquent taxes and
21 other claims that come within the
22 Municipal Claims and Tax Liens Law. For
23 example, we are negotiating with a
24 collection agency to collect recently
25 delinquent real estate taxes for a 16

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2 percent contingency. Before we referred
3 such properties to a law firm for legal
4 proceedings and potential foreclosure at
5 an 18 percent contingency. We believe a
6 taxpayer whose delinquent taxes are
7 collected by the collection agency should
8 bear the 16 percent collection agency
9 fee, just as a taxpayer whose delinquency
10 requires the action of an outside law
11 firm must pay the 18 percent contingent
12 attorney's fee.

13 New Paragraph (d) to Subsection
14 19-3101, Subsection 1 would allow us to
15 impose a collection agency fee of up to
16 16 percent on these real estate-based
17 taxes and municipal claims. We currently
18 pay 18 percent or even 25 percent in
19 certain instances, but we are requesting
20 that only 16 percent be added onto their
21 delinquencies, because we do not intend
22 to charge taxpayers more for collection
23 agency fees than we do for attorney fees.
24 The 16 percent will significantly improve
25 the City's bottom line even if it does

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2 not fully cover all contingent fees.

3 We are also asking for
4 clarifying amendments to Paragraphs 1(a),
5 (b) and (c) to clarify that we may charge
6 less than the full authorized amount
7 where we see fit. We do not intend to
8 overcharge taxpayers.

9 Finally, the amendments to
10 Sections 3101, Subsection 2 and 3102
11 would give my office the same authority
12 to revise fees and set contract terms for
13 collection agencies as it has for
14 attorneys.

15 I want to emphasize that this
16 bill only relates to fees under the
17 Municipal Claims and Tax Liens Law and
18 not to other taxes, such as hotel, use
19 and occupancy, liquor, amusement or
20 business taxes. We do not yet have
21 authority from the State to pass
22 contingent fees onto taxpayers that are
23 delinquent on such taxes. The State does
24 have such authority, and we will be
25 seeking it from the General Assembly. If

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2 we get it, I will be before you again to
3 request your authorization to pass those
4 costs onto the taxpayers in a similar
5 fashion.

6 COUNCILWOMAN TASC0: Thank you
7 very much.

8 MS. SMITH: Thank you.

9 COUNCILWOMAN TASC0: So what
10 you're doing, you're now opening the door
11 to allow collection agencies to collect
12 real estate liens?

13 MS. SMITH: That's correct.

14 COUNCILWOMAN TASC0: It has not
15 been done before?

16 MS. SMITH: It has not.

17 COUNCILWOMAN TASC0: You
18 couldn't do it until the State passed the
19 legislation?

20 MS. SMITH: Well, we could do
21 it, but we wouldn't -- we would have
22 absorbed the cost. So it was not cost
23 effective for us to do it.

24 COUNCILWOMAN TASC0: So you
25 weren't allowed to collect the fee from

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2 them to do the collection?

3 MS. SMITH: That's correct.

4 COUNCILWOMAN TASC0: Well, if

5 you have collection from the Water

6 Department, I mean, don't they pay a fee?

7 How do you collect revenue through --

8 MS. SMITH: The Water

9 Department?

10 COUNCILWOMAN TASC0: What is

11 your relationship with collection

12 agencies on the water collections?

13 COMMISSIONER RICHARDSON: The

14 collection agencies that you're using at

15 the Water Department, we have to pay them

16 a fee for doing the collections for the

17 City.

18 COUNCILWOMAN TASC0: So you

19 have to pay them?

20 COMMISSIONER RICHARDSON: Yes.

21 The City absorbs that fee.

22 COUNCILWOMAN TASC0: The City

23 pays the -- how much do they pay? What's

24 the percentage?

25 COMMISSIONER RICHARDSON: The

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2 percentage, I think, for the water is 18
3 percent. So I can't give you a dollar
4 amount, but that's a percentage.

5 COUNCILWOMAN TASC0: You were
6 paying 18 percent to the Water
7 Department, to those collection agencies
8 who collect on behalf of the Water
9 Department?

10 COMMISSIONER RICHARDSON: Yes.

11 COUNCILWOMAN TASC0: So why
12 couldn't you use a collection agency
13 before?

14 COMMISSIONER RICHARDSON: We
15 were using a collection agency, but they
16 charge a fee, so we had to pay -- the
17 City has to pay the agency the fee. We
18 couldn't charge that fee back to the
19 water customer.

20 COUNCILWOMAN TASC0: I see.

21 MS. SMITH: In other words, the
22 18 percent fee is deducted from the
23 revenues that the City collects.

24 COUNCILWOMAN TASC0: Now --

25 MS. SMITH: In the Water

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2 Department example.

3 COUNCILWOMAN TASC0: So now are
4 you proposing to use collection agencies
5 who operate in the City of Philadelphia?

6 MS. SMITH: I believe -- I
7 mean, what we would submit and have
8 issued, an RFP, and we receive proposals,
9 and we are evaluating the proposals that
10 we've received, and I believe that the
11 proposers are Philadelphia -- at least
12 some of the proposers are Philadelphia
13 collection agencies.

14 COUNCILWOMAN TASC0: Do they
15 get any consideration by being a
16 Philadelphia business?

17 MS. SMITH: It's --

18 COUNCILWOMAN TASC0: When you
19 make your selection after an RFP comes
20 back. You don't have to necessarily take
21 the lowest bidder, but you have other
22 considerations. Is that a consideration?

23 MS. SMITH: That is one of the
24 considerations, yes.

25 COUNCILWOMAN TASC0: So now you

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2 pay the law firms right now, the only
3 ones that you're using for the real
4 estate collections?

5 MS. SMITH: That's correct.

6 COUNCILWOMAN TASC0: So could
7 you have negotiated a fee with them for
8 16 percent? We do have law firms in the
9 City who are doing this work. Could you
10 renegotiate the 18 percent down to 16
11 percent? So now with the 16 percent, the
12 law firms won't get the business.

13 MS. SMITH: I think that --
14 well, I think that we've attempted to
15 negotiate a fee with the law firms. I
16 think the 18 percent reflect the lowest
17 fee that we were able to negotiate.
18 Certainly it reflects -- obviously
19 attorneys have -- attorneys typically
20 have a value to their service that's
21 reflected typically in an hourly rate,
22 and that factors into their calculation
23 of what fee is reasonable based on the
24 volume of business and the likely
25 collections.

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2 COUNCILWOMAN TASC0: So how
3 many law firms do we have now
4 collecting --

5 MS. SMITH: We have one,
6 Linebarger.

7 COUNCILWOMAN TASC0: So what
8 happens to them? Because they certainly
9 have a strong minority participation in
10 this City.

11 MS. SMITH: Linebarger will
12 continue to do collections work for the
13 City.

14 COUNCILWOMAN TASC0: But would
15 they be able to negotiate down to 16
16 percent?

17 MR. CANTU-HERTZLER: Yes. I'm
18 Dan Cantu-Hertzler.

19 What we are proposing for their
20 coming contract is that they collect the
21 taxes that have been delinquent for a
22 longer period of time. That, in effect,
23 is reducing their contingency, because
24 those older debts are harder to collect,
25 whereas right now they have some more

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2 recent ones as well. So our proposal is
3 that they continue at 18 percent and a
4 collection agency that has the more
5 recent debts start at 16 percent.

6 COUNCILWOMAN TASC0: Any other
7 questions?

8 Councilwoman Brown.

9 COUNCILWOMAN BROWN: Thank you.

10 Good afternoon, everyone. I
11 didn't hear the answer to Chairwoman's
12 question regarding will this be -- I
13 don't want to misquote -- limited to
14 Philadelphia firms only. You said you
15 did an RFP.

16 MS. SMITH: I believe her
17 question was whether or not Philadelphia
18 firms would get the business, was that
19 one of the considerations, and the answer
20 was yes.

21 COUNCILWOMAN BROWN: And what
22 was the answer to the follow-up question
23 regarding additional -- I don't want to
24 misquote -- additional consideration for
25 Philadelphia firms?

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2 MS. SMITH: We --

3 COUNCILWOMAN BROWN: Point
4 wise. What does that translate into?

5 MS. SMITH: We don't assign a
6 particular number of points for any
7 particular factor. We evaluate the
8 proposals as a whole, and one of the
9 factors is Philadelphia-based firm, is
10 whether the firm proposing is a
11 Philadelphia-based firm.

12 COUNCILWOMAN BROWN: So the
13 more precise answer to the question is
14 that it is not limited to Philadelphia,
15 anyone in the region can apply for this
16 opportunity?

17 MS. SMITH: That's correct.
18 The opportunity is not limited to
19 Philadelphia-based firms.

20 COUNCILWOMAN BROWN: Which also
21 suggests then that the workers can be
22 from some place other than Philadelphia?

23 MS. SMITH: That's correct.

24 COUNCILWOMAN BROWN: Okay. If
25 my memory serves me correctly, in my

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2 first term here, there was a non-lawyer
3 type firm in the collection business and
4 the outcome of that was not favorable in
5 that particular circumstance. My concern
6 is the following: Most of the time we're
7 in the business of being advocates for
8 constituents that call our office, and
9 even those constituents who have fallen
10 on hard times want to honor up in terms
11 of their taxes, but are not able, need
12 advocates who can talk with, ask for --
13 not dismissal but consideration to help
14 that taxpayer honor up that particular
15 duty.

16 I have no confidence in
17 non-lawyer type enterprises, because my
18 experience is that very seldom they could
19 care less about that particular personal
20 circumstance of that business or that
21 citizen. And so for that reason, I do
22 have reservations that we are thinking
23 about moving towards an entity that is
24 not a lawyer type professional
25 enterprise, because lawyers then have a

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2 Code of Ethics that they have to live up
3 to, which is an additional assurance for
4 us as advocates for constituents that the
5 boundaries are being honored.

6 So with that said, help us
7 understand -- and I didn't follow the
8 discussion and dialogue around
9 percentages, the collection agencies can
10 earn up to X percentage. So with that
11 said, help us understand why moving in
12 this direction can be of a greater
13 benefit to citizens in the City.

14 MS. SMITH: First of all, I
15 think -- I'm absolutely sensitive to that
16 concern, as we all are. It's my
17 experience that, without intending to
18 denigrate lawyers as a whole, lawyers can
19 be as insensitive as non-lawyers to the
20 issue that you're identifying.

21 It is our responsibility to
22 manage the contracts with these agencies
23 who would want the business and,
24 therefore, be inclined, in our
25 experience, to satisfy our concerns.

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2 With respect -- using as an
3 example some of the issues that have
4 arisen with the Linebarger contract, we
5 are mindful of the need to include in the
6 contract terms terms that make clear our
7 expectation that reasonable arrangements
8 and reasonable parameters around
9 settlement discussions for these kinds of
10 issues be followed, and certainly it's
11 our obligation on behalf of the City to
12 ensure that those guidelines are being
13 followed by the agencies that we retain
14 to engage in this collection activity,
15 and we would expect them to adhere to
16 them and be sensitive. And those
17 guidelines reflect the sensitivity to the
18 taxpayers' desire to resolve on sort of
19 reasonable terms that you're talking
20 about.

21 COUNCILMAN GREEN: I have a
22 point of information, Madam Chair.

23 COUNCILWOMAN TASC0: Have you
24 ever had a collection agency call you?

25 MS. SMITH: I beg your pardon?

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2 COUNCILWOMAN TASC0: Have you
3 ever had a collection agency call you?

4 MS. SMITH: Me personally?

5 COUNCILWOMAN TASC0: They're
6 not sensitive.

7 Councilman Green.

8 COUNCILMAN GREEN: Thank you.

9 Thank you, Madam Chair.

10 I think that we should be aware
11 that the collection of taxes is not
12 subject to the federal Debt Collection
13 Practices Act. So there are no
14 restrictions on a collection agency under
15 federal law. So the harassing phone
16 calls that people get from collection
17 agencies currently are permitted by
18 federal law. There would be absolutely
19 no legal restrictions on a collection
20 agency collecting a debt other than what
21 we put in contract, which we may or may
22 not be able to enforce or ever hear about
23 the problem.

24 So I think this is potentially
25 very -- I just wanted to get that fact

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2 out there, because lawyers have Rules of
3 Professional Conduct that they have to
4 comply with. Collection agencies will
5 have no law prohibiting any tactic they
6 want to use if we permit them to collect
7 these taxes, and I just think that
8 that's -- we need to think about this.

9 MS. SMITH: Okay. There is a
10 similar -- there's a State law similar to
11 the federal Debt Collection Law that does
12 apply to collection agencies, although it
13 may not apply to us. It does apply to
14 collection agencies, and it does provide
15 the kind of protections you're talking
16 about.

17 COUNCILMAN GREEN: For taxes,
18 the collection of taxes?

19 MS. SMITH: Yes.

20 COUNCILWOMAN TASC0: Does the
21 federal government supersede the State
22 law?

23 MS. SMITH: If the federal law
24 is silent, then, no, there's nothing in
25 the federal law to supersede State law.

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2 In other words, if the federal law is
3 silent as to the particular issue, then
4 there's no issue.

5 COUNCILWOMAN TASC0: Councilman
6 Greenlee.

7 COUNCILMAN GREENLEE: Thank
8 you, Madam Chair.

9 I have to echo what has been
10 said already. I think there's a real
11 concern here. And I guess a basic
12 question is, why go away from just
13 lawyers and go to collection agencies? I
14 mean, let's face it, we all can tell our
15 stories. We've all heard them. I mean,
16 I'm just more comfortable -- I kid about
17 lawyers sometimes, but I'm just more
18 comfortable that they're going to follow
19 certain regulations than a lot of these
20 collection agencies I've been around.
21 And you could put restrictions on them,
22 but they still are who they are. And I
23 just think as a lawyer, there are more
24 restrictions or more regulations that
25 they have to operate under.

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2 COUNCILWOMAN BROWN: That are
3 universal in terms of understanding and
4 awareness.

5 COUNCILMAN GREENLEE: It's
6 troubling, I guess is the best word to
7 say.

8 COMMISSIONER RICHARDSON: I
9 think the collection agencies that
10 potentially the City may engage in in the
11 near future you will find are very
12 professional that would be dealing with
13 our taxpayers. The citizens that you're
14 talking about may be perhaps some of the
15 most egregious citizens or taxpayers that
16 have been thumbing their nose up at us
17 for several years. And you got to
18 realize with the Department of Revenue,
19 we've been sending dunning notices out.
20 The Law Department is trying to have
21 proactive ways to collect the money also.

22 So when you engage with an
23 agency, they're dealing with a taxpayer
24 that may be egregious that is not willing
25 to take care of their responsibilities

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2 that is owed to the City of Philadelphia.

3 Now, with experience working at

4 the State level with the collection

5 agencies, they've done a very good job

6 and they've been very professional.

7 There was very limited conversations

8 about taxpayers being slandered on the

9 phone by someone from an agency. I don't
10 think you would get that from them.

11 You're looking at more someone

12 that's probably calling in regard to a

13 credit card debt or other debt compared

14 to tax debt.

15 COUNCILMAN GREENLEE: I guess

16 I'm getting whatever I hear from

17 collection agencies. That's what I

18 usually hear from. I'm not saying

19 they're all bad, but everything that we

20 hear --

21 COMMISSIONER RICHARDSON:

22 Again, we're not using them as we would

23 like to go for it with them, as we're

24 talking about the real estate taxes today

25 and potentially coming back to you soon

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2 about business taxes.

3 But you got to understand, the
4 taxpayer that we're talking about is
5 someone that said -- it's just like, for
6 example, a couple weeks ago we posted
7 delinquent taxpayers on the website.
8 Those are the most egregious people that
9 are telling you, We don't care what you
10 do. So here's a person that you have to
11 send out to an agency.

12 For all the cases that we
13 potentially may have, there may not be
14 enough attorneys in a firm to work all
15 those cases, so you give it to an agency
16 who has a plethora of people to work and
17 can take the time and at a lower cost
18 than paying an attorney to collect the
19 debt that is owed to the City.

20 COUNCILMAN GREENLEE: Not to be
21 sarcastic, I've never heard there's not
22 enough attorneys to do anything.

23 MS. SMITH: I'd just like to
24 add too that we have the right to re-call
25 any case from the agency if we think the

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2 agency is being unreasonable. And I
3 think -- it's our perception that because
4 the collection agency is operating at a
5 pre-litigation stage, they're less --
6 they should be less threatening than the
7 lawyer, who has more legal tools at the
8 lawyer's disposal.

9 COUNCILMAN GREENLEE: Maybe the
10 lawyer doesn't have to act a certain way.
11 It seems to me it's the way these
12 agencies, at least historically that I
13 have heard, have acted. Now,
14 Commissioner, you said there's others and
15 I'm not saying there aren't, but --

16 COMMISSIONER RICHARDSON: I
17 would say this to you --

18 COUNCILWOMAN TASC0: They were
19 so bad that there are restrictions on
20 what time they can call. Now you can put
21 your name on the list of the State that
22 you don't get any calls. That's how bad
23 they were. And some of them still can
24 be.

25 So that is why we're all

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2 sitting here -- we've had experience with
3 them. Maybe some of us personally, some
4 of us not, but we know if the State
5 implements a program that says if you
6 don't want to be called, call this number
7 and put your number in and you won't get
8 calls from these collection agencies or,
9 I mean, I guess these people who are
10 calling to sell you something. But if
11 you're being harassed, they call you at 6
12 o'clock in the morning. They call you --
13 there are restrictions, but they still
14 don't abide by those restrictions. So we
15 don't have a favorable feeling about
16 collection agencies.

17 COMMISSIONER RICHARDSON:
18 Again, with the agencies that we
19 potentially could be using know the
20 guidelines of calling after 7 o'clock in
21 the morning and before 9 o'clock in the
22 evening time. Again, a lot of the
23 agencies also recognize that if they do
24 contact you one time, they cannot call
25 you again until a week later.

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2 So I think, again, the
3 taxpayers that you are getting that are
4 calling you saying they are very upset by
5 the agencies contacting them, you can
6 call us, let us know, we can have that
7 case pulled back and we can work it
8 within our systems between the Law and
9 Revenue Department instead of being with
10 the agency.

11 MS. SMITH: And if I may, in
12 the time that we've used Linebarger,
13 we've not -- Linebarger's conduct has not
14 been beyond complaint either. So the
15 mere fact that lawyers are involved
16 doesn't necessarily improve the handling
17 of a particular case, nor does, I would
18 suggest, the mere fact that a collection
19 agency might be involved suggest that the
20 handling will necessarily be negative.

21 I don't think that the
22 perception broadly and kind of
23 anecdotally of collection agencies should
24 drive the determination of whether or not
25 we are able to use them and pass that

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 cost along. I think it's incumbent upon
3 us, and we've indicated our acceptance of
4 the responsibility to oversee the work of
5 the collection agencies to ensure that
6 these issues that you legitimately
7 identify and issues with which we are all
8 concerned be monitored appropriately so
9 that the collection agencies don't abuse
10 the authority that they're given on our
11 behalf to collect this debt that's owed
12 to the City.

13 COUNCILWOMAN TASC0: Any other
14 questions?

15 COUNCILMAN O'NEILL: Just a
16 couple things for clarity.

17 The work that would, if this
18 bill passed, potentially go to a
19 collection agency at two points under the
20 attorney fee -- is it 16 versus 18?

21 MS. SMITH: Yes; up to 16
22 percent.

23 COUNCILMAN O'NEILL: Is that
24 collection work that prior to this bill
25 hypothetically passing would have been

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 done by Linebarger or another firm?

3 MS. SMITH: Yes. Yes. What
4 we're proposing is to assign to a
5 collection agency the more recent debt,
6 as Mr. Cantu-Hertzler said, the more
7 recent debt, which previously might have
8 been assigned to Linebarger.

9 COUNCILMAN O'NEILL: Now we're
10 getting into policy. Forget the other
11 issues. Have we been dissatisfied with
12 Linebarger's collection rate on early
13 debt versus later debt, since that's what
14 is going to shift? I'm just turning your
15 answer into a question.

16 MS. SMITH: I think that we --

17 COUNCILMAN O'NEILL: And follow
18 that, we think collection agencies may
19 get us more money on the short-term stuff
20 than Linebarger has been getting us?

21 MS. SMITH: I think that what
22 we are endeavoring to do is take a
23 slightly different approach to long
24 overdue outstanding collections and
25 direct the legal resources, which we

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 think are the heavier resources, towards
3 the debt that's more difficult to
4 collect.

5 COUNCILMAN O'NEILL: I don't
6 know if it's come across. I think
7 there's a real strong feeling up here
8 about this collection agency issue,
9 but --

10 MS. SMITH: Yes, I've picked
11 that up.

12 COUNCILMAN O'NEILL: It would
13 seem to me that the early collection is
14 the easiest. I mean, some people would
15 say that's the cherry picking part of
16 collections. To be giving that out up to
17 16 percent when we give 18 percent to the
18 law firm, which is now going to migrate
19 to the more longer-term stuff, seems to
20 be an unfair differential in favor of the
21 collection agency. It would seem to me
22 that you would get more weighted heavily
23 on the harder-to-collect stuff than the
24 easier-to-collect stuff.

25 I'm just throwing that out,

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 because it just jumps off the page. And
3 that's aside from issues like who do we
4 want from a policy standpoint to be doing
5 this kind of collection work.

6 COUNCILWOMAN TASC0: Let me
7 just say this: I have a case which I
8 spoke to you about and which I will
9 continue to -- will pursue with you, but
10 one of your top tax delinquents is in my
11 district, and I have for years tried to
12 get the City to move on it, and nothing
13 has been done. Nothing has been done.
14 I've asked. And so -- you're new. Okay?
15 You're new. You just got here, and I
16 spoke to you about it, but I want to talk
17 to you more in detail about it. But it's
18 been for years. The City didn't do it,
19 could have taken it to sheriff's sale,
20 without calling them. Didn't have to
21 call them. They're so far in arrears
22 that the City didn't have to give it to
23 Linebarger or anybody else. Just go take
24 them.

25 So I wonder about just in-house

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 collection before you put it out there,
3 what is the process and how do you -- do
4 you put forth real effort to collect
5 these taxes from these people?

6 I just raise that for you,
7 because some of you have been here for a
8 while, others are new, but we will talk
9 about that. But I have the largest -- I
10 believe one of the largest in the City is
11 in my district. We've been trying to
12 move it. It hasn't been moved to
13 sheriff's sale. Everybody says, Oh,
14 yeah, well, I'll get back to you. Nobody
15 gets back to me.

16 We're going to move on.
17 Anybody else here to testify on this
18 bill?

19 (No response.)

20 COUNCILWOMAN TASC0: Any other
21 comments?

22 COUNCILMAN GREEN: I just was
23 wondering if you could answer Councilman
24 O'Neill's question. You sort of answered
25 it backwards by saying we're changing the

1 12/3/08 - FINANCE - BILLS 080791 and 080882

2 long and -- we want to change our focus
3 on the long end and have the lawyers.

4 Do we expect that collection
5 agencies -- and if I'm stating this
6 incorrectly. Do we expect the collection
7 agencies will increase revenue versus
8 Linebarger? Are we dissatisfied with the
9 early revenue collection that's currently
10 happening?

11 MS. SMITH: Given that -- I'm
12 going to defer to Commissioner Richardson
13 on the question of better collections
14 results. I would prefer not to speak
15 about satisfaction or dissatisfaction,
16 because to me that is a process of our
17 evaluation of contract reforms that I
18 don't think it's appropriate to get into
19 in this forum, although I'm happy to have
20 a separate conversation with you about
21 that issue. But I'm going to defer to
22 Commissioner Richardson on the answer to
23 that.

24 COMMISSIONER RICHARDSON: With
25 regards to bringing on additional

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 agencies, you have an opportunity to
3 increase our revenue that we haven't been
4 going after. With more agencies on
5 board, it makes more competition for
6 other agencies. There's more opportunity
7 for us to get more cases out to the
8 agencies as well.

9 As you said earlier, cherry
10 picking is a good ideal, but if you can't
11 get to all those cases, they start to
12 become stale. So you have more to send
13 to an agency while they're still somewhat
14 fresh. So it would help us increase our
15 revenue streams in the City of
16 Philadelphia.

17 Percentage-wise, I couldn't
18 quantify that for you, but I think it
19 would be advantageous for us.

20 COUNCILMAN GREEN: So why
21 wouldn't law firms, adding additional law
22 firms, fulfill that same end?

23 COMMISSIONER RICHARDSON:
24 Again, with law firms, you got to realize
25 you may have a firm of 50 to 100 people.

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2 You have a collection agency that may
3 have a staff of two to three, four
4 hundred people. So you have more
5 opportunities for those cases to be
6 worked more readily than a law firm. You
7 may have one particular case in a law
8 firm you continue to work on. Those
9 other cases may become stale. So then
10 you're going to be losing an opportunity
11 to get the funds, whereas another
12 creditor may be knocking on the door and
13 they're going to take care of paying them
14 and we lost our opportunity to get that
15 money that was owed to the City.

16 COUNCILMAN GREEN: So in this
17 time of financial crisis, what you're
18 saying is, the City is going to engage in
19 more aggressive collection practices with
20 our most at-risk portion of our
21 population?

22 COMMISSIONER RICHARDSON: Even
23 if we weren't in a financial crisis, I
24 think we still would be engaging with
25 more collection agencies.

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2 COUNCILWOMAN TASC0: Thank you
3 very much for your testimony.

4 MS. SMITH: Thank you.

5 COUNCILWOMAN TASC0: The Clerk
6 will read the next bill.

7 THE CLERK: Bill No. 080882, an
8 ordinance amending Chapter 19-3200,
9 entitled "Keystone Opportunity Zone and
10 Economic Development District," by
11 providing for additional properties to be
12 added to certain subzones; providing for
13 extensions of the term of benefits for
14 certain properties; and making related
15 and technical changes; all under certain
16 terms and conditions.

17 (Witnesses approached witness
18 table.)

19 COUNCILWOMAN TASC0: Good
20 afternoon. Do you have any surprises for
21 us? Are we going to sail through this?

22 MR. BUMB: We have no intended
23 surprises.

24 COUNCILWOMAN TASC0: Proceed.

25 MR. BUMB: Good afternoon,

1 12/3/08 - FINANCE - BILLS 080791 and 080882

2 Madam Chair and members of the Committee
3 on Finance. My name is Duane Bumb. I am
4 Senior Deputy Director of Commerce for
5 the City of Philadelphia. I am joined at
6 the table today by Vince Dougherty, who
7 is also from the Commerce Department.

8 I am here today to provide
9 testimony in support of Bill No. 080882,
10 a bill authorizing the City of
11 Philadelphia to apply to the Commonwealth
12 of Pennsylvania to expand the benefits of
13 the Keystone Opportunity Zone, or KOZ,
14 program within the City. The bill would
15 specifically authorize, number one, the
16 addition of certain parcels to the KOZ
17 program where the properties being added
18 are immediately adjacent to existing
19 KOZ-designated sites; and, number two,
20 the extension of the term of KOZ benefits
21 to selected unoccupied sites currently
22 approved to receive KOZ benefits. The
23 bill also makes technical amendments to
24 Chapter 19-3200, which makes the City
25 Code consistent with the State law on the

1 12/3/08 - FINANCE - BILLS 080791 and 080882

2 Keystone Opportunity Zone program.

3 In July of 2008, the State
4 Legislature passed and Governor Rendell
5 signed Senate Bill 1412. This bill made
6 certain changes to the current Keystone
7 Opportunity Zone program, including
8 authorization for local governments to
9 seek approval for additional properties
10 to receive KOZ benefits and to extend the
11 term for unoccupied properties in
12 existing KOZ subzones.

13 The Commerce Department has
14 assembled a list of properties in
15 response to the changes authorized under
16 Senate Bill 1412, including several
17 publicly owned sites that do not
18 currently generate tax payments to either
19 the City or School District. Privately
20 owned properties are also being
21 recommended for addition or extension of
22 KOZ benefits for those sites where
23 significant economic development projects
24 were identified that could proceed based
25 on the availability of Keystone

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 Opportunity Zone benefits. The privately
3 owned properties are being recommended
4 subject to a requirement that each
5 property owner enter into a Payment in
6 Lieu of Taxes, or PILOT, with the School
7 District effectively offsetting the cost
8 to the District for its portion of the
9 abated taxes.

10 Based on our review of the
11 properties that could generate
12 significant new economic development
13 opportunities without negatively
14 impacting projected tax receipts, the
15 Commerce Department is recommending
16 adding two vacant publicly owned
17 properties at the Navy Yard and ten
18 vacant privately owned properties to the
19 existing Keystone Opportunity Zone
20 program.

21 We are also recommending that
22 the Keystone Opportunity Zone term be
23 extended for seven years for 25 vacant
24 publicly owned properties and 12 vacant
25 privately owned properties, as noted on

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 an attachment you have in front of you
3 summarizing the list of recommended
4 properties.

5 The cost to the City of the
6 proposed property additions is estimated
7 at \$38,645 per year, and the cost for
8 extending the term of the KOZ designation
9 for the proposed properties is \$61,580
10 per year. These costs are based on 2009
11 Board of Revision of Taxes' proposed
12 assessments for the properties. The
13 years for which the benefits and costs
14 apply for each property is also included
15 in the attached property list.

16 As I already noted, these
17 proposed changes in Keystone Opportunity
18 Zone benefits will be revenue neutral to
19 the School District, since all privately
20 owned properties will be required to
21 enter into a PILOT agreement with the
22 School District for their portion of the
23 taxes.

24 In summary, we believe the
25 properties being recommended for

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 inclusion in this legislation will
3 provide significant investment and tax
4 creation opportunities with minimal
5 opportunity cost to the City and
6 virtually no cost to the School District.

7 I would like to submit proposed
8 amendments to Bill 080882 at this time.
9 A summary of those amendments is also
10 sort of attached and was provided to you
11 with my testimony. With the Chair's
12 concurrence, I can summarize those
13 amendments for the record.

14 And then if you want me to --
15 after you want me to do that, I would say
16 that it would conclude my testimony, and
17 I would respectfully request the
18 Committee's support for this bill and
19 proposed amendments and would further
20 request that the rules of Council be
21 waived to allow for first reading at
22 Council's next scheduled meeting.

23 Thank you for your
24 consideration. I'd be happy to answer
25 any questions.

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2 COUNCILWOMAN TASC0: Thank you.

3 The Chair recognizes Councilman
4 Goode.

5 COUNCILMAN GOODE: Thank you,
6 Madam Chair.

7 Good afternoon, Mr. Bumb.

8 MR. BUMB: Good afternoon.

9 COUNCILMAN GOODE: In your
10 testimony you say the School District
11 will be held harmless. How is that
12 formalized within the legislation or
13 within the agreements?

14 MR. BUMB: There are -- again,
15 the process that we are proposing is that
16 all privately owned properties that would
17 otherwise be obligated to pay taxes enter
18 into a Payment in Lieu of Taxes with the
19 School District. We presented that to
20 the School District for their
21 consideration at their December meeting
22 as well.

23 COUNCILMAN GOODE: So that's
24 formalized for the School District
25 process?

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2 MR. BUMB: That's right. This
3 would be agreement between the School
4 District and the property owners.

5 COUNCILMAN GOODE: In terms of
6 what you described as minimal opportunity
7 cost to the City and which you describe
8 as significant investment in job creation
9 opportunities, is there actually any
10 project benchmarking that is done that
11 says that X amount of jobs have to be
12 created or X amount of investment has to
13 be done in lieu of the taxes that we're
14 giving up?

15 MR. BUMB: No. What you're
16 suggesting is something that we actually
17 proposed for an earlier piece of
18 legislation that Council saw this past
19 June for a proposed business attraction
20 in a Keystone Opportunity Zone in West
21 Philadelphia where we had put a new job
22 requirement on. Again, a large majority
23 of the properties that are on our
24 proposed list today are publicly owned
25 sites that have already received KOZ

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 benefits and that we're looking to
3 provide an extension because they have
4 not been developed -- actually, just to
5 provide additional sort of incentive for
6 future investment and job growth. We
7 have not defined the minimum amounts for
8 those. Some of those sites are actually
9 pretty small, so you'd probably want it
10 to be tailored on a per-site basis.

11 COUNCILMAN GOODE: But all the
12 sites are not incidental individual
13 sites. Some of them obviously can become
14 projects if assembled together. And the
15 question is, have you established any
16 project benchmarks at all in exchange for
17 the revenues being given up?

18 I had this conversation
19 actually with Mr. Dougherty when he
20 briefed me on this and was told that
21 there was at least some criteria that was
22 going to be set up in terms of project
23 benchmarking.

24 MR. BUMB: Well, it would be
25 our intention on a project-by-project

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2 basis as they come before us to sort of
3 establish criteria to support projects
4 before we would consider transfer of
5 those publicly controlled sites, so that
6 in fact there will be job requirements on
7 a project basis. We would absolutely be
8 building those in, but it will not --
9 it's not a blanket bill or --

10 COUNCILMAN GOODE: But there's
11 no minimum criteria or benchmarks that
12 are set?

13 MR. BUMB: There will be --
14 there will not be benchmarks per se on an
15 across-the-board basis. There will be
16 benchmarks that are established to
17 identify minimum job creation and project
18 investment criteria based on the site
19 configuration.

20 COUNCILMAN GOODE: So, in
21 essence, we don't necessarily know what
22 we're getting in exchange for the
23 revenue, minimally?

24 MR. BUMB: I think that's true.
25 Again, I sort of go back to the -- I'm

1 12/3/08 - FINANCE - BILLS 080791 and 080882

2 focusing primarily on those industrial
3 park sites that are publicly owned that
4 do not generate taxes today, that if
5 we -- it would be our intention to
6 provide additional incentive to encourage
7 that investment and that job creation.
8 Sort of without the additional benefit,
9 there's probably less likelihood that
10 those sites will see a development
11 interest in the short term.

12 COUNCILMAN GOODE: I understand
13 that, and I'll be brief in terms of
14 further comments, but I'm not suggesting
15 that you create criteria before you have
16 an interested party per se that's
17 supposed to match any other ventures out
18 there, but my suggestion, is there any
19 sort of benchmarking that exists in terms
20 of how many jobs have to be created per
21 thousand dollars that we're forgiving? I
22 mean, is there any job creation criteria
23 set for this or any other investment
24 criteria set for this, minimally?

25 MR. BUMB: We have --

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2 COUNCILMAN GOODE: I mean, for
3 example, a thousand dollars per job,
4 5,000 per job, 10,000 per job in terms of
5 taxes we're forgiving or in terms of
6 investment that's going to be made.

7 MR. BUMB: I understand what
8 you're saying. We have existing
9 benchmarks for industrially zoned
10 property that we are looking to attract
11 new industrial development, which would
12 indicate how much investment per acre is
13 at a minimum, how many jobs created per
14 acre at a minimum. We don't have the
15 same sort of criteria for commercial
16 developments, but we certainly have those
17 for industrial sites. Again, most of the
18 properties we're talking about here are
19 industrially zoned properties. So we do
20 have that.

21 COUNCILMAN GOODE: Thank you.

22 COUNCILWOMAN TASCO: The Chair
23 recognizes Councilman Green.

24 COUNCILMAN GREEN: Thank you,
25 Madam Chair.

1 12/3/08 - FINANCE - BILLS 080791 and 080882

2 Good afternoon.

3 MR. BUMB: Good afternoon.

4 COUNCILMAN GREEN: The

5 amendments that are proposed, do they

6 affect any of the maps or properties that

7 you briefed me on? In other words, have

8 you added any properties in the

9 amendments that we have not discussed?

10 MR. BUMB: I think just because

11 of me having sort of talked with you

12 later rather than earlier in that

13 process, the answer is no. I believe

14 that we've sort of gone -- I've talked to

15 many of the Councilmembers to determine

16 did the properties that we incorporated

17 into the ordinance as introduced, were

18 they sort of acceptable. I got -- we did

19 receive some recommendations to add

20 certain properties. I think I knew those

21 when I spoke with you. They are

22 certainly listed here in the amendments.

23 COUNCILMAN GREEN: So is this

24 map of the Navy Yard section accurate?

25 MR. BUMB: At the Navy Yard,

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2 that is accurate. That is the refined
3 version that we, I think, didn't have
4 available when we spoke with you. We
5 didn't present it to you. I think we had
6 a relatively much less detailed version.

7 COUNCILMAN GREEN: Yeah. So
8 this is not changing based on any of the
9 amendments?

10 MR. BUMB: That's right.
11 That's right.

12 COUNCILMAN GREEN: Okay. I'd
13 like to go back to Councilman Goode's
14 first question, which has to do with
15 PILOT agreements. So are you saying the
16 City will not be a party to PILOT
17 agreements with the people who would get
18 this benefit and we'll have no ability to
19 enforce the PILOT agreements to make sure
20 that the revenue comes in to us and then
21 is forwarded to the School District?

22 MR. BUMB: As I sort of noted
23 in my testimony, there is a certain
24 amount of projected sort of taxes that
25 the City would forego in the case of --

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2 COUNCILMAN GREEN: But I'm not
3 asking about that. I'm asking about the
4 PILOT agreements.

5 MR. BUMB: The PILOT agreement
6 would in fact be protecting us for those
7 total dollar amounts, which in the scheme
8 of things are not very great.

9 COUNCILMAN GREEN: Right. Is
10 the City a party to the PILOT agreements?

11 MR. BUMB: No, it is not. It
12 is the School District which will enter
13 into the PILOT agreement with the --

14 COUNCILMAN GREEN: So we will
15 have no ability to enforce the PILOT
16 agreements?

17 MR. BUMB: That's correct.

18 COUNCILMAN GREEN: Would you
19 care to tell this body why the City will
20 not be a party to the PILOT agreements?

21 MR. BUMB: They are
22 specifically for the School District's
23 portion of the receipts. I mean, if we
24 were looking to sort of create a PILOT
25 for the General Fund portion --

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2 COUNCILMAN GREEN: Also, if a
3 PILOT agreement is longer than a year and
4 it's not subject to a case in controversy
5 that is in court, we would have had to
6 approve these PILOT agreements, and by
7 going directly to the School District,
8 you don't have to come to Council for
9 PILOT agreement approval.

10 MR. BUMB: That's correct.

11 COUNCILMAN GREEN: Thank you.

12 COUNCILWOMAN TASC0: Are there
13 any other questions?

14 (No response.)

15 COUNCILWOMAN TASC0: Is there
16 anyone else here to testify on this bill?

17 (No response.)

18 COUNCILWOMAN TASC0: Thank you.

19 MR. BUMB: Thank you.

20 COUNCILWOMAN TASC0: Okay.

21 That concludes our public hearing. We
22 will now move to our public meeting.

23 The Chair recognizes
24 Councilwoman Blackwell -- I will announce
25 that we're going to hold Bill 080791.

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2 The Chair recognizes

3 Councilwoman Blackwell to move Bill

4 080882, to move the amendments first.

5 COUNCILWOMAN BLACKWELL: Madam

6 Chair, I move that the amendments that

7 were already circulated, all ten

8 amendments, to Bill 080882 be adopted.

9 (Duly seconded.)

10 COUNCILWOMAN TASC0: It has

11 been moved and seconded that the

12 amendments to Bill 080882 be adopted.

13 All in favor will say aye.

14 (Aye.)

15 COUNCILWOMAN TASC0: Is there

16 any opposition?

17 (No response.)

18 COUNCILWOMAN TASC0: There

19 being none, the motion carries.

20 The Chair recognizes

21 Councilwoman Blackwell.

22 COUNCILWOMAN BLACKWELL: Thank

23 you, Madam Chairman. I move that Bill

24 No. 080882, as amended, be reported out

25 of Committee with a favorable

1 12/3/08 - FINANCE - BILLS 080791 and 080882
2 recommendation and also that the rules be
3 suspended so as to permit first reading
4 at our next session of Council.

5 (Duly seconded.)

6 COUNCILWOMAN TASC0: It has
7 been moved and seconded that Bill 080882,
8 as amended, be reported out of Committee
9 with a favorable recommendation and that
10 the rules of Council be suspended so that
11 this bill can be heard at Council's next
12 session.

13 All in favor will say aye.

14 (Aye.)

15 COUNCILWOMAN TASC0: Is there
16 any opposition?

17 (No response.)

18 COUNCILWOMAN TASC0: There
19 being none, the bill is carried.

20 Thank you all very much, and
21 this meeting is adjourned.

22 (Committee on Finance adjourned
23 at 2:15 p.m.)

24 - - -

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on December 3, 2008, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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